

The logo for the WSI (Institute of Economic and Social Research) features the letters 'WSI' in a bold, black, sans-serif font. Above the letters is a horizontal orange bar, and below them is a horizontal red bar.

Institute of Economic and
Social Research

The WSI is an institute of
the Hans-Böckler-Stiftung

AN “OPEN” CONSTITUTION FOR EUROPE

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10th Annual TURI Conference

May 17, Berlin

Content

- I. The Problem: The market-liberal bias of European integration
- II. A proposal for an “open” constitution for Europe
- III. Conclusions

I. THE PROBLEM: THE MARKET-LIBERAL BIAS OF EUROPEAN INTEGRATION

The market-liberal bias of European integration

Basic problem: Asymmetry between social regulation and economic liberalization

1. Problems of political decision-making:

- High majority thresholds (unanimity, qualified majority)
 - Institutional and macro-economic heterogeneity of member states
- ▶ **Limited capacity for problem solving of European politics**

The market-liberal bias of European integration

Basic problem: Asymmetry between social regulation and economic liberalization

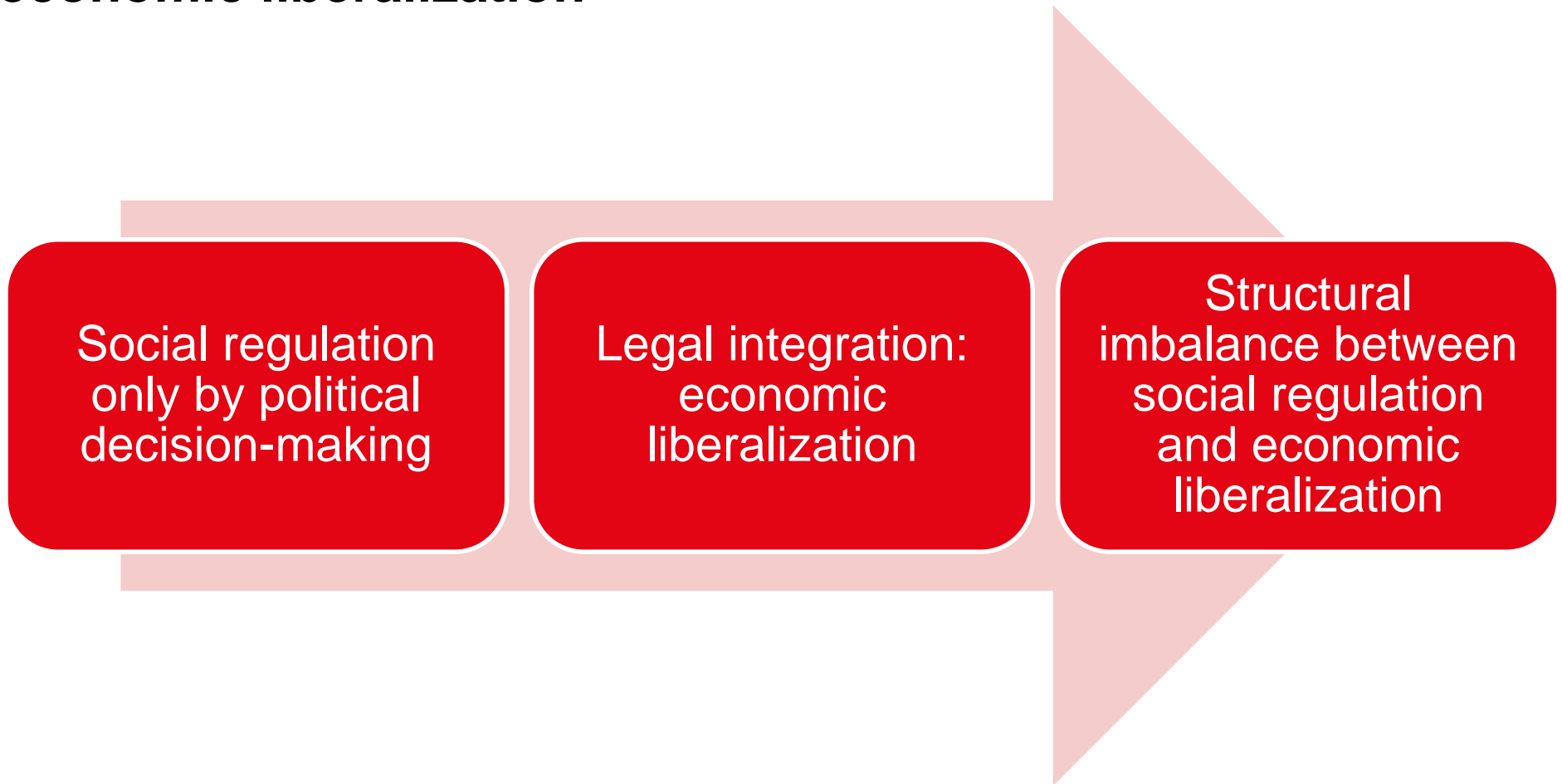
2. Dynamic of integration through law:

- Unilateral rulings of ECJ/decisions of Commission
- Primacy over national law
- Basis: market-liberal elements of EU-law (fundamental freedoms, competition law)
- Political correction by governments and parliaments barely feasible
- ▶ **Fundamental conflict with institutions of social market economy (autonomy of collective bargaining, right to strike, codetermination, public services)**



The market-liberal bias of European integration

Basic problem: Asymmetry between social regulation and economic liberalization



II. A PROPOSAL FOR AN “OPEN” CONSTITUTION FOR EUROPE

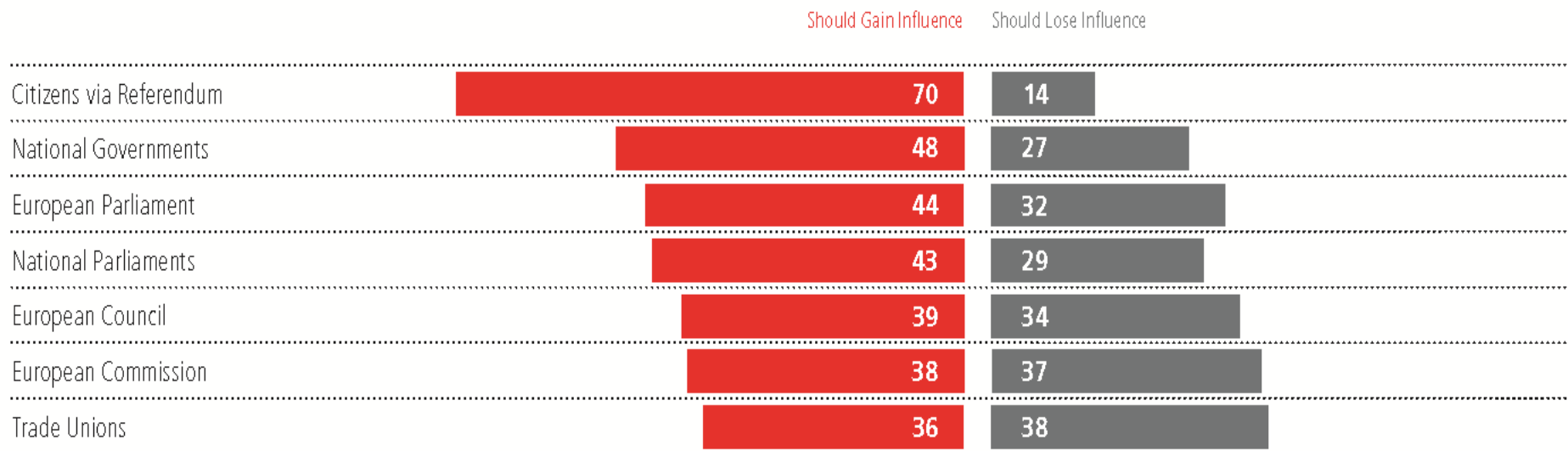
Basic elements of “open” constitution

What do citizens want?

Figure 17

European Matters: Institutions and Authority

Which Institutions Should Gain, Which Institutions Should Lose Influence?



Question: Who should gain and who should lose influence in European matters?

Figures in per cent | Gap between figures shown and 100 percent is the equivalent of categories »do not know«, »prefer not to say«

Basis: Eligible voters

Source: policy matters

Source: FES 2016

Basic elements of “open” constitution

Basic idea:

- Triad of (1) **simplification** and (2) **democratization** of decision-making processes with (3) **flexible integration**
- Exchange of veto points of EU legislation by politically controlled Opt-outs

Basic elements of “open” constitution

De-constituionalization of single market law [1]

- Reduction of EU constitution to elements typically included in constitutions: provisions about institutions, procedures, competences, social and civil rights
- Single market law not part of constitutional law but of ordinary law [acquis communautaire] → no constitutional status
- Removal of the primacy of economic freedom rights over social collective rights

Basic elements of “open” constitution

Multiple right to initiative [2]

- No monopolized right to initiative for Commission → no watering down of initiatives contradicting market-liberal preferences of DGs Market, Competition or Trade
- Right to initiative for qualified minorities in the EP and the Council → Upgrading of the European Parliament → democratization of the EU

Basic elements of “open” constitution

Lower majority thresholds for ordinary legislation

[3]

- Approval of ordinary legislation with simple majorities in the EP and Council

Basic elements of “open” constitution

Politically controlled opt-out options for ordinary legislation [4]

- Protection of national specifics of single/ small groups of member states from being constantly overruled by simple majorities
- Opting-out politically controlled: absolute majority of EP and qualified majority in the Council can deny opt-out

Basic elements of “open” constitution

Benefits

- Restoration of primacy of democratic politics over single market
- Institutional architecture open for social and economic policy alternatives
- Increase of political problem solving capacity of European legislation
- Higher public attention, politicization of European decisions on national and European level
- Stronger role for national parliaments → increase of democratic quality in the member states

Cost

- Uniform application of EU law
- Europe of different speeds

III. CONCLUSIONS

Conclusions

- Reform no guarantee for realization of a social Europe
- Social Europe result of political struggles yet to come

BUT

- **Removal of institutional obstacles preventing political majorities from implementing alternative social and economic policy conceptions**
- **Social distribution of power → leveling playing field**